



Agenda Date: 2/1/06  
Agenda Item: 2F

**State of New Jersey**  
**Board of Public Utilities**  
*Two Gateway Center*  
*Newark, NJ 07102*  
[www.bpu.state.nj.us](http://www.bpu.state.nj.us)

IN THE MATTER OF THE PROVISION OF )  
RENEWABLE ENERGY CERTIFICATES )  
FROM NON-UTILITY GENERATORS AND )  
THE BOARD'S RENEWABLE ENERGY )  
PORTFOLIO STANDARD AS IT PERTAINS )  
TO BASIC GENERATION SERVICE )  
SUPPLIERS )

ENERGY

DECISION AND ORDER

DOCKET NO. EO05121063

(Service List Attached)

BY THE BOARD<sup>1</sup>

By Order dated April 20, 2005, the Board determined that with respect to the existing Board-approved Power Purchase Agreements between the State's Electric Distribution Companies ("EDCs") and various non-utility generators ("NUGs"), the renewable attributes associated therewith belong to the purchasing EDCs for the benefit of the EDCs' customers for the duration of those contracts. I/M/O the Ownership of Renewable Energy Certificates Under the Electric Discount and Energy Competition Act, as it pertains to Non-Utility Generators and the Board's Renewable Energy Portfolio Standards, BPU. Docket No. EO04080879 ("April 20, 2005 Order"). The Board's April 20, 2005 Order is currently under appeal.<sup>2</sup>

The 2006 Auction for Basic Generation Service ("BGS") electric supply is scheduled to begin on February 3, 2006. Currently, consistent with the April 20, 2005 Order, and as described in the utility-specific addenda attached to their Board-approved BGS compliance filings, the EDCs allocate NUG RECs among winning suppliers in the BGS Auction for the benefit of the EDCs' BGS customers. The within Order is being issued to provide clarification to bidders in the 2006 BGS Auction with respect to their obligations under the Board's Renewable Energy Portfolio Standards N.J.A.C. 14:4-8 et seq. ("RPS") in order to help them appropriately price their bids. The Board HEREBY CLARIFIES that for RPS compliance purposes, winning bidders in the 2006 BGS Auction, through the EDCs, will be credited with an equivalent level of NUG RECs as would be available to them through the EDCs, assuming the EDCs had an unappealable right to such RECs. NUG RECs that are currently available to EDCs, which are in excess of the levels required for RPS compliance by the EDCs' respective suppliers, are not affected by this clarification.

A related issue arises because certain NUGs have not properly registered their output with the currently operational PJM Interconnection - Environmental Information Systems Generator Attributes Tracking System ("PJM-EIS GATS"). PJM-EIS GATS became operational on

---

Commissioner Connie O. Hughes abstained from voting on this matter.

<sup>2</sup> Appellate Docket Nos. A-5183-04T5, A-5189-04T5 & A-5191-04T5.; Federal District Court Civil Action No. 05-2844 (KSH)(PS)


September 12, 2005. Preliminary indications are that some NUGs either have not registered with the PJM-EIS GATS system, or have done so but have not designated their output as under contract with a New Jersey EDC. The Board has designated PJM-EIS GATS as the clearinghouse for Class I and Class II RECs. To the extent that NUGs either fail to register with PJ-EIS GATS or fail to designate their output to the appropriate EDC, PJM-EIS GATS would not be able to allocate these attributes to the appropriate EDC, and thereby to BGS suppliers.

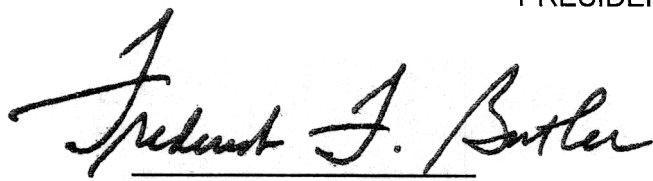
Accordingly, consistent with the April 20, 2005 Order, and in order to provide customers with the lowest reasonable electric supply costs and maintain an efficient RPS reporting process, the Board believes that customers should continue to receive the benefits of the NUG RECs to which this Board has found that they are entitled. Thus, upon proper documentation, the EDCs will receive a reduction in their RPS obligation for NUG RECs not properly registered with PJM-EIS GATS.

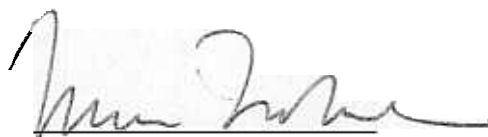
Therefore, the Board DIRECTS that either as the direct result of NUG RECs being available through the EDCs or as an administrative credit to the EDCs, an equivalent level of NUG RECS as would be available to suppliers, through the EDCs, assuming the EDCs have definitively determined rights to such RECs and assuming the proper registration of such RECs with PJM-EIS GATS be recognized for current BGS suppliers and for winning bidders in the 2006 BGS Auction, for the term of their contract, The Board FURTHER DIRECTS that the EDCs receive a reduction in their RPS obligation equal to the level of NUG RECs not registered or improperly registered with PJM-EIS GATS, subject to proper supporting documentation.

DATED: 2/3/06

BOARD OF PUBLIC UTILITIES  
BY:

  
JEANNE M. FOX  
PRESIDENT

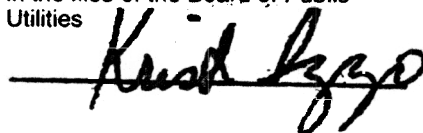
  
FREDERICK F. BUTLER  
COMMISSIONER

  
JOSEPH L. FIORDALISO  
COMMISSIONER

ATTEST:

  
KRISTI IZZO  
SECRETARY

I HEREBY CERTIFY that the within  
document is a true copy of the original  
in the files of the Board of Public  
Utilities



Board of Public Utilities  
Service List  
EO05121063

**BPU STAFF**

Kristi Izzo, Secretary  
Board of Public Utilities  
Two Gateway Center  
Newark, New Jersey 07102

Mark Beyer  
Chief Economist  
Board of Public Utilities  
Two Gateway Center  
Newark, New Jersey 07102

Nusha Wyner, Director  
Division of Energy  
Board of Public Utilities  
Two Gateway Center  
Newark, New Jersey 07102

Frank Perrotti  
Division of Energy  
Board of Public Utilities  
Two Gateway Center  
Newark, New Jersey 07102

Peter Yochum, Issues Manager  
Division of Energy  
Board of Public Utilities  
Two Gateway Center  
Newark, New Jersey 07102

Kenneth Welch  
Division of Energy  
Board of Public Utilities  
Two Gateway Center  
Newark, New Jersey 07102

Rene Demuynck  
Division of Energy  
Board of Public Utilities  
Two Gateway Center  
Newark, New Jersey 07102

John Garvey  
Office of the Economist  
Board of Public Utilities  
Two Gateway Center  
Newark, New Jersey 07102

Alice Bator, Chief  
Division of Energy  
Board of Public Utilities  
Two Gateway Center  
Newark, New Jersey 07102

Dennis Moran, Asst. Director  
Division of Energy  
Board of Public Utilities  
Two Gateway Center  
Newark, New Jersey 07102

**DAG**

Helene Wallenstein  
Division of Law  
Dept. of Law & Public Safety  
124 Halsey Street  
P.O. Box 45029  
Newark, New Jersey 07102

Babette Tenzer  
Division of Law  
Dept. of Law & Public Safety  
124 Halsey Street  
P.O. Box 45029  
Newark, NJ 07102

**RATEPAYER ADVOCATE**

Seema M. Singh, Acting  
Ratepayer Advocate & Director  
Division of Ratepayer Advocate  
31 Clinton Street, 11<sup>th</sup> Floor  
P.O. Box 46005  
Newark, New Jersey 07102

Badrhn M. Ubushin, Esq.  
Division of Ratepayer Advocate  
31 Clinton Street, 11<sup>th</sup> Floor  
P.O. Box 46005  
Newark, New Jersey 07101

Ami Morita  
Division of Ratepayer Advocate  
31 Clinton Street, 11<sup>th</sup> Floor  
P.O. Box 46005  
Newark, New Jersey 07101

Kurt Lewandowski  
Division of Ratepayer Advocate  
31 Clinton Street, 11<sup>th</sup> Floor  
P.O. Box 46005  
Newark, New Jersey 07101

Diane Schulze  
Division of Ratepayer Advocate  
31 Clinton Street, 11<sup>th</sup> Floor  
P.O. Box 46005  
Newark, New Jersey 07101

John Stutz  
Tellus Institute  
11 Arlington Street  
Boston, MA 02116-341

**ACE**

Randall Griffen, Esq.  
Pepco Holdings, Inc.  
Legal Dept.  
800 King Street  
PO Box 231  
Wilmington, DE 19899-0231

Mark Mucci, Esq.  
Saul Ewing LLP  
One Riverfront Plaza, 5<sup>th</sup> Floor  
Newark, NJ 07102-5490

Joe Janocha  
Atlantic City Electric Co.  
5100 Harding Highway  
Mays Landing, NJ 08330

Peter Schaub  
Pepco Holdings, Inc.  
701 Ninth Street NW  
Washington, DC 20068-0001

**JCP&L**

Michael J. Filippone  
JCP&L  
300 Madison Avenue  
PO Box 1911  
Morristown, NJ 07962-1911

Kevin Connolly  
JCP&L  
300 Madison Avenue  
PO Box 1911  
Morristown, NJ 07962-1911

Larry Sweeney  
JCP&L  
300 Madison Ave,  
P.O. Box 1911  
Morristown, NJ 07962-1911

Marc B. Lasky, Esq.  
Thelen Reid & Priest, LLP  
200 Campus Drive, St. 210  
Florham Park, NJ 07932

Julie Friedberg, Esq.  
Thelen Reid & Priest, LLP  
200 Campus Drive, St. 210  
Florham Park, NJ 07932

**PSE&G**

Francis E. Delany, Jr., Esq.  
Public Service Electric & Gas Co.  
80 Park Plaza, T8C  
Newark, NJ 07101

Frances I. Sundheim, Esq.  
Public Service Electric & Gas Co.  
80 Park Plaza T8C  
Newark, NJ 07101

**ROCKLAND**

John L. Carley, Esq.  
Consolidated Edison Co. of NY, Inc.  
4 Irving Place  
New York, NY 10003

James C. Meyer, Esq.  
Riker, Danzig, Scherer, Hyland & Perretti, LLP  
Headquarters Plaza  
One Speedwell Avenue  
Morristown, NJ 07962

David Hernandez  
Orange & Rockland Utilities  
390 West Rt. 59  
Spring Valley, NY 10977-5320

Kevin Jones  
Orange & Rockland Utilities  
390 West Rt. 59  
Spring Valley, NY 10977-5320

**PJM**

Jackie Hugue  
PJM Interconnection, L.L.C.  
955 Jefferson Avenue  
Valley Forge Corporate Center  
Norristown, PA 19403-2497

**SUPPLIERS**

Geoffrey Allen  
AEP Service Corp.  
155 W. Nationwide Blvd. St. 500  
Columbus, OH 43215

Scott Brown  
Exelon Energy (PECO)  
2315 Enterprise Drive  
Westchester, IL 60154-581

David Koenig  
Allegheny Energy  
909 3<sup>rd</sup> Avenue, 33<sup>rd</sup> Floor  
New York, NY 10022

Eric Konopacky  
Constellation Power Source, Inc.  
111 Market Place, Suite 500  
Baltimore, MD 21202

Brian Liu  
Constellation Power Source, Inc.  
111 Market Place, Suite 500  
Baltimore, MD 21202

Murry Weaver  
Entergy Power Marketing Corp.  
Parkwood Two Building, Suite 500  
10055 Grogan's Mill Road  
The Woodlands, TX 77380

David Samuels  
Morgan Stanley Capital Group, Inc.  
2000 Westchester Ave.  
Purchase, NY 10577

Deborah Hart  
Morgan Stanley Capital Group, Inc.  
2000 Westchester Ave.  
Trading Floor  
Purchase, NY 10577

Catherine Flax  
Morgan Stanley Capital Group, Inc.  
1585 Broadway, 4<sup>th</sup> Floor  
New York, NY 10036

Sharon Weber  
PP&L Energy Plus  
2 North 9<sup>th</sup> Street TW 2  
Allentown, PA 18101

Gary Sorenson  
PSEG Power  
80 Park Plaza, T-21A  
Newark, NJ 07102

Shawn P. Leyden  
PSEG Energy Resources & Trade  
80 Park Place, T-19  
Newark, NJ 07102

Ken Salamone  
Semptra Energy Trading Corp.  
58 Commerce Road  
Stamford, CT 06902

Bonnie Graziano  
Pepco Energy Services, Inc.  
543 Valley Road  
Montclair, NJ 07043

Board of Public Utilities  
Service List  
EO05121063

Marilena Marrelli Semptra Energy Trading Corp. 58 Commerce Road Stanford, CT 06902	Gary Ferenz Conectiv Energy Supply Inc. Christiana Bldg. 252 Chapman Road P. O. Box 6066 Newark, DE 19714-6066	<u><b>MARKETERS</b></u> Irene Prezlj FirstEnergy Solutions 395 Ghent Rd., Ste. 408 Akron, OH 44333	Dale Kanterman, VP Eastern Energy Services 60 Fostertown Road Medford, NJ 08055
Ike Gibbs Reliant Energy, Inc. 379 Thormal Street Fifth Floor Edison, NJ 08837	Katharine Olinchak Conectiv Power Delivery 401 Eagle Run Rd. PO Box 9239 Newark, DE 19714-9239	Kevin Laguardia Amerada Hess Corporation One Hess Plaza Woodbridge, NJ 07095	Marc Hanks Select Energy, Inc. 107 Selden Street Berlin, CT 06037
Ken Gfroerer Reliant Energy RR1 Box 246 Stahlstown, PA 15687	Rose Burke Conectiv Energy Supply Inc. Christiana Bldg. 252 Chapman Road P. O. Box 6066 Newark, DE 19714-6066	Stephen Fernands Customized Energy Solutions (for AES New Energy) 215 South Broad Street, 10 <sup>th</sup> Fl. Philadelphia, PA 19107	Tom Kinnane Direct Energy 3 Bethesda Metro Center st. 700 7450 Wisconsin Ave. Bethesda, MD 20814
Bill Rice Reliant Energy 1111 Louisiana Street Houston, TX 77002	Maria Robinson Con Edison Energy 701 Westchester Avenue Suite 201 West White Plains, NY 10604	Sara O'Neill Constellation NewEnergy 810 7 <sup>th</sup> Ave., Ste. 400 New York, NY 10019	Tom Michelman Xenergy 3 Burlington Woods, 4 <sup>th</sup> fl. Burlington, MA 01803-4543
Shalin Shah Reliant Energy 1111 Louisiana Street Location 1971D Houston, TX 77002	Stephen Wemple Con Edison Energy 701 Westchester Avenue Suite 201 West White Plains, NY 10604	Steven Gabel Gabel Associates 417 Denison Street Highland Park, NJ 08904	<u><b>OTHER PARTIES</b></u> Jack Johnson President Geophonic, Inc. P.O.Box 580 Summit, NJ 07901
Glenn Riepl AEP Energy Services 1 Riverside Plaza, 14 <sup>th</sup> Fl. Columbus, OH 43215-2373	Igor Gonta J. Aron & Co. 85 Broad Street, 9 <sup>th</sup> Floor New York, NY 10004	John Holtz Green Mountain Energy Co. 3000 Atrium Way Mail Box 275 Mount Laurel, NJ 08054	Nathaniel Greene NRDC 40 W. 20 <sup>th</sup> Street, 11 <sup>th</sup> fl. New York, NY 10011
Angelo Chambrone Select Energy NY, Inc. 507 Plum Street Syracuse, NY 13204	Christian Hnat Edison Mission Marketing & Trading 160 Federal Street, 4 <sup>th</sup> Floor Boston, MA 02110	Paul Dwyer Green Mountain Energy Co. 123 Bloomingdale Ave. Suite 202 Wayne, PA 19087	Sara Bluhm NJBIA 102 West State Street Trenton, NJ 08608-1199
Kuljinder Chase Energy Trading Merrill Lynch Capital Services 4 World Financial Center 7 <sup>th</sup> fl. New York, NY 10080	Robert Viola Edison Mission Mktg. & Trading 160 Federal Street, 4 <sup>th</sup> Floor Boston, MA 02110	Jay Kooper Amerada Hess Corp. One Hess Plaza Woodbridge, NJ 07095	Melanie Willoughby, VP NJBIA 102 West State Street Trenton, NJ 08608-1199
Leonard E. Navitsky Select Energy, Inc. 3301 Cherokee St. Emmaus, PA 18049	Gordon Sanderson Suez Energy Marketing NA 1990 Post Oak Blvd. Suite 1900 Houston, TX 77056-3831	Tom Michelman Senior Professional - XENERGY 3 Burlington Woods - 4th Floor Burlington, MA 01803-4543	Stephen Dilts Director/Government Affairs Chemical Industry Council of New Jersey 150 W. State Street Trenton, NJ 08608
John Llodra UBS Warburg Energy, LLC 82 Smith Street Groton, MA 01450	Ira Megdal Cozen, O'Connor Libertyview, St. 300 457 Haddonfield Road P.O. Box 5459 Cherry Hill, NJ 08002-2220	Lisa Ferguson Duke Energy North America 5400 Westheimer Court Houston, TX 77056	Kate McNamara Delaware River Port Authority Port Authority Transit Corp. One Port Center 2 Riverside Drive Camden, NJ 08101
Bob Trejo UBS 677 Wawshington Blvd. Stamford, CT 06901	Stephen J. Humes McCarter & English CityPlace 1 Hartford, CT 06103	Michael G. Briggs Reliant Resources, Inc. 801 Pennsylvania Ave. NW Washington, DC 20004-2604	Roger M. Schwarz Governmental Affairs (RESA) 1 Benjamin Rush Lane Princeton, NJ 08540
Steve Sheppard DTE Energy Trading 414 S. Main St., Suite 200 Ann Arbor, MI 48104	Grace Kurdian McCarter & English 245 Park Ave. New York, NY 10167	SueAnne I. Harrel Pepco Energy Services 101 Castle Pointe Blvd. Piscataway, NJ 08854	Marvin Spira Food Policy Institute 71 Lipman Drive New Brunswick, NJ 08901
D. Michael Cornwell Dominion Retail, Inc. 120 Tredegar Street Richmond, VA 23219		Dana Swieson EPEX 102 Pickering Way, Suite 102 Exton, PA 19341-1330	Jack O'Connor Rutgers Food Policy Institute ASB III, 3 Rutgers Plaza New Brunswick, NJ 08901
William Barkas Dominion Retail, Inc. 625 Liberty Ave., 21 <sup>st</sup> Floor Pittsburgh, PA 15222			

Board of Public Utilities  
Service List  
EO05121063

---

Richard Santoro  
NJ Retail Merchants Assoc  
332 W. State Street  
Trenton, NJ 08618

James Benton  
NJ Petroleum Council  
150 W. State Street  
Trenton, NJ 08608

David Gillespie  
NJ Transit  
One Penn Plaza East  
Newark, NJ 07105-2246

Linda Doherty  
NJ Food Council  
30 W. Lafayette St  
Trenton, NJ 08608

Frank Magnotti  
Comverge, Inc.  
120 Eagle Rock Ave., St. 190  
East Hanover, NJ 07936

Gregory Lawrence  
McDermott Will & Emery  
28 State Street  
Boston, MA 02109-1775

Paul Forshay  
Sutherland Asbill & Brennan  
1275 Pennsylvania Ave. NW  
Washington, DC 20004-2415

Steven S. Goldenberg, Esq.  
Fox Rothschild  
997 Lenox Drive, Bldg. 3  
Lawrenceville, NJ 08648

Howard Thompson  
Russo Turnulty Nester  
Thompson & Kelly LLP  
One Exchange Place, Suite 501  
Jersey City, NJ 07302

Daniel O'Hern, Jr.  
Becker Meisel, LLC  
The Galleria  
2 Bridge Ave., Bldg. 1  
Red Bank, NJ 07701

Murray Bevan  
Courter, Kobert, & Cohen, P.C.  
1001 Rt. 517  
Hackettstown, NJ 07840

James Laskey  
Norris McLaughlin & Marcus  
721 Rt. 202-206  
Bridgewater, NJ 08807